

Public Company Advisory

Recent developments governing public companies and their officers, directors and investors

SEC Adopts Broad Capital Formation and Reporting Reforms for Smaller Reporting Companies

The Securities and Exchange Commission recently adopted a series of reforms to its rules governing capital formation and reporting for smaller reporting companies. These reforms will significantly benefit smaller reporting companies. Larger public companies and investors will also benefit from a number of the reforms. The principal changes include:

- reduced disclosure and reporting requirements for companies with a common equity public float of less than \$75 million;
- access to “short form” registration on Forms S-3 and F-3 for companies with a common equity public float of less than \$75 million for public offerings that do not exceed one-third of their public float in a 12-month period;
- increased flexibility under Rule 144 and Rule 145 for public resales of restricted and control securities, including reducing the minimum holding period for restricted securities of reporting issuers from one year to six months; and
- exemptions that will reduce the circumstances under which non-reporting companies can become subject to SEC reporting requirements as a result of issuances of compensatory stock options.

The SEC also adopted provisions mandating the electronic filing of Form D and adopted amendments to the information required in Form D. Electronic filing will result in electronic access to the information in Form D filings by regulators and the public for the first time. The effective date of the amendments to the disclosure requirements of Form D is September 15, 2008. Electronic filing of Form D information may be made on a voluntary basis commencing on September 15, 2008, and will be mandatory commencing on March 16, 2009.

The SEC also proposed several changes that will amend the exemption for unregistered offerings provided by Regulation D. These amendments will reduce current regulatory burdens on smaller companies and others that rely on Regulation D to raise capital in private offerings.

New Rule 507 “Qualified Purchaser” Exemption. The first of the proposed Regulation D amendments would create a new exemption under Regulation D for unregistered sales of securities to “Rule 507 qualified purchasers” and allow companies to engage in limited, tombstone-like advertising as part of the offering

process provided they only sell the securities to Rule 507 qualified purchasers. The proposed definition of “Rule 507 qualified purchaser” would include:

- individuals who own at least \$2.5 million in investments or have annual income of at least \$400,000 individually or \$600,000 with their spouses;
- institutional investors that qualify as “accredited investors,” as currently defined, without having to satisfy monetary thresholds; and
- directors, executive officers and general partners of the issuer.

Revised Definition of “Accredited Investor.” The proposed amendments would also revise the existing “accredited investor” definition under Regulation D by adding an alternative way for individuals to qualify for accredited investor status. The proposals would create a new “investments-owned” category of accredited investors who own at least \$750,000 of investments (for individuals) or \$5 million (for institutions). The new test for accredited investor status would be in addition to the current standards based on total assets, net worth and income levels. The proposals would also add several new categories of entities to the list of accredited investors. In addition, the proposals would add an adjustment for inflation to the monetary thresholds for accredited investors and Rule 507 qualified purchasers, starting in 2012.

Additional Regulation D Proposals. Additional proposed changes to Regulation D include reducing the minimum safe harbor period for integration of offerings under Regulation D from six months to 90 days and providing uniform, updated “bad actor” disqualifications for all Regulation D offerings, rather than only Rule 505.

To date these proposals have not been adopted by the SEC. John White, the Director of the SEC’s Division of Corporation Finance, recently stated that the Division of Corporation Finance would focus on these proposals, among others, during 2008.

Disclosure and Reporting Requirements for Smaller Reporting Companies

The SEC recently adopted significant changes to the disclosure and reporting requirements for small business issuers under the Securities Act of 1933 and Securities Exchange Act of 1934. In general, these changes extend the benefits of the small company reporting system formerly found in Regulation S-B to a broader range of companies, integrate the requirements of Regulation S-B with the corresponding items of Regulations S-K and S-X, and eliminate the small business, or “SB”, forms. Public companies that qualify as smaller reporting companies will be able to choose on an item-by-item, or “a la carte,” basis to comply with either the scaled disclosure requirements for smaller reporting companies or the disclosure required for larger companies under Regulation S-K.

Eligibility

Under Regulation S-B, an issuer could file as a “small business issuer” if it had less than \$25 million in common equity float and less than \$25 million in annual

revenues. Under the new definition of “smaller reporting company,” companies that have less than \$75 million in public common equity float may use the scaled disclosure system, regardless of annual revenues. A company without a calculable public float may file as a smaller reporting company if it had less than \$50 million in annual revenues during its last fiscal year. Foreign companies that would otherwise qualify as smaller reporting companies, that elect to use domestic company forms and provide financial statements prepared using U.S. GAAP can also use the scaled disclosure system. However, investment companies and asset-backed issuers continue to be excluded from eligibility for smaller company reporting status.

Eligibility for entering the scaled disclosure system and the requirements for exiting the system are based upon the methodology of the SEC adopted for determining accelerated filer status. Accordingly, companies will determine eligibility for smaller reporting company status based on their public float as of the last business day of their most recent second fiscal quarter. A reporting company with no calculable public float will make the determination based on its annual revenues during the most recently completed fiscal year for which audited financial statements are available.

Non-reporting companies filing an initial registration statement, such as in connection with an initial public offering, or IPO, will determine eligibility as of a date within 30 days of the initial filing date of the registration statement. Eligibility will be based on the estimated offering price per share at the time of filing, the number of outstanding shares held by non-affiliates before the offering and the number of shares being offered. Provided the company makes a bona fide eligibility determination at the time it initially files the registration statement, it will not be required to transition its disclosure to the larger company requirements if its public float rises above \$75 million prior to the time the registration statement is declared effective. Rather, the company will continue to be a smaller reporting company until its next annual determination date – the end of its second fiscal quarter. In addition, a company may recalculate its public float after completing its IPO. If the company recalculates its public float post-IPO and determines that it is under \$75 million, it will qualify as a smaller reporting company and will be able to use the scaled disclosure system for its first periodic report due after the registration statement is declared effective.

A smaller reporting company will be required to exit the scaled disclosure system the fiscal year following the year in which its public float exceeds the \$75 million as of the last business day of its second fiscal quarter. To reenter the scaled disclosure system, a company would be required to determine that its public float fell below \$50 million as of the last business day of its second fiscal quarter, and would be able to use scaled disclosure again in the next fiscal year following the determination, starting with the first Form 10-Q of the next fiscal year. A company without a calculable public float will qualify to use the scaled disclosure system until it exceeds \$50 million in annual revenue. Once the company fails to qualify as a smaller reporting issuer because its revenues exceed \$50 million, it will not be eligible to use the scaled disclosure system until its revenues are less than \$40 million (based on annual revenues during its most recently completed fiscal year).

Elimination of Regulation S-B and the SB Forms and Integration of the Regulation S-B Disclosures into Regulations S-K and S-X

The new rules phase out Regulation S-B and the SB forms and integrate the Regulation S-B disclosure into Regulations S-K and S-X. A phase-out period has been instituted for small business issuers transitioning to smaller reporting issuer status. Accordingly, Forms 10-QSB and 10-KSB may only be used until October 31, 2008 and March 15, 2009, respectively.

Generally, the new rules do not change the disclosure requirements for small business issuers, but have moved certain non-financial disclosure requirements in Regulation S-B to the corresponding items of Regulation S-K and the financial statement disclosure requirements in Item 301 of Regulation S-B into a new Article 8 of Regulation S-X. Where the Regulation S-B requirement was substantially similar to the corresponding Regulation S-K requirement, no change to Regulation S-K was made. In a few instances, the amendments did alter the disclosure requirements in place for small business issuers. For instance, historically Item 301 of Regulation S-B provided that small business issuers need only provide one year of audited balance sheet data. Under the new rules, smaller reporting companies are required to provide two years of comparative audited balance sheet data. Smaller reporting companies will also be required to provide disclosure under Item 401 of Regulation S-K, regarding directors, executive officers, promoters and control persons, with respect to any petitions filed under the federal bankruptcy laws or any state insolvency laws filed by or against a director or officer of the company. Regulation S-B did not require the disclosure of personal bankruptcy petitions. The SEC stated that such disclosure is especially appropriate in the smaller reporting company context given that, in light of the typically smaller level of operations, it may be material to an evaluation of the ability or integrity of any director or nominee.

The following items of Regulation S-K provide scaled disclosure requirements for smaller reporting companies:

Item	Reporting Companies	Smaller Reporting Companies
101	More detailed business description and disclosure of business development activities covering five years	Less detailed business description and disclosure of business development activities only covering three years
201	Comparative stock performance graph required	Comparative stock performance graph <i>not</i> required
301	Selected financial information required	Selected financial information <i>not</i> required
302	Supplementary financial information required	Supplementary financial information <i>not</i> required

303	Three years of management discussion and analysis (“MD&A”) required	Only two years of MD&A required
305	Disclosures about market risk are required	Disclosures about market risk are <i>not</i> required
402	<ul style="list-style-type: none"> • Compensation Discussion & Analysis (“CD&A”) required • Executive Compensation disclosure regarding the five highest paid executive officers required • Summary compensation table to contain three years of compensation information • All compensation tables required 	<ul style="list-style-type: none"> • CD&A <i>not</i> required • Executive Compensation disclosure for the principal executive officer and the two other most highly compensated executive officers • Summary compensation table to contain two years of compensation information • Only three required compensation tables: <ul style="list-style-type: none"> ○ Summary Compensation Table ○ Outstanding Equity Awards Table ○ Director Compensation Table
404	<ul style="list-style-type: none"> • Required to disclose policies and procedures for reviewing related person transactions • Required to provide disclosure regarding a transaction where the amount exceeds \$120,000, and in which any related person had or will have a direct or indirect material interest 	<ul style="list-style-type: none"> • <i>Not</i> required to disclose policies and procedures for reviewing related person transactions • Required to provide disclosure regarding a transaction where the amount exceeds the lesser of 1% of the average of the company’s total assets at the fiscal year end for the last two completed fiscal years or \$120,000, and in which any related person had or will have a direct or indirect material interest
407	Required to make a Compensation Committee Interlock and Insider Participation disclosure or a Compensation Committee Report and required to provide certain disclosures regarding audit committee financial experts	<i>Not</i> required to make a Compensation Committee Interlock and Insider Participation disclosure or a Compensation Committee Report; not required to provide disclosures regarding audit committee financial experts until the first annual report after the initial registration statement is filed with the SEC and becomes effective
503	Required to provide and update risk factors in Forms 10, 10-K, and 10-Q	<i>Not</i> required to provide or update risk factors in Forms 10, 10-K, or 10-Q

“A-la-Carte” Reporting

Smaller reporting companies may choose the level of disclosure that makes the most sense for the company and its investors. Smaller reporting companies can elect to comply with the new scaled disclosure requirements, or they can pick and choose on an a-la-carte basis to comply with some or all of the corresponding requirements in Regulation S-K for larger companies. The only exception to the general rule is where the requirements for smaller reporting companies are more rigorous than those for larger reporting companies. Currently, the only instance of this is in Item

404, where a smaller reporting company is required to disclose a related person transaction that involves an amount less than \$120,000 if the amount involved in such transaction exceeds 1% of the average of the company's total assets at the fiscal year end for the last two completed fiscal years.

Timing of Compliance

Current small business issuers may elect to file their next annual report for a fiscal year ending on or after December 15, 2007 on either Form 10-K using the new scaled disclosure requirements in Regulation S-K or on Form 10-KSB.¹ Small business issuers may continue to file periodic reports using the SB Forms until their next annual report. Form 10-QSB and Form 10-KSB will be eliminated effective October 31, 2008 and March 15, 2009, respectively. Once a company transitions to the new scaled disclosure system, it will be required to file all future quarterly and annual reports using Forms 10-Q and 10-K.

Companies newly qualifying as smaller reporting companies may elect to use the new scaled disclosure requirements in Regulation S-K in registration statements and periodic reports filed after February 4, 2008. On the other hand, if a registration statement was filed on an "SB" form, and the company seeks to amend it after February 4, 2008, the company must file the amendment on the appropriate form available to the issuer without an "SB" designation.

The rule changes took effect on February 4, 2008. The SEC release adopting these rule changes is available on the SEC website at <http://www.sec.gov/rules/final/2007/33-8876.pdf>.

Access to "Short Form" Registration (Forms S-3 and F-3) for Public Offerings

The SEC amended the eligibility requirements for the use of "short form" registration statements making Forms S-3 and F-3 available to a larger number of domestic and foreign companies. The ability to use Forms S-3 and F-3 for primary offerings will make the significant timing and cost savings benefits of these forms available to smaller reporting companies for the first time. The amendments will allow public companies with less than \$75 million in public float to register primary offerings of their securities on these forms, provided these companies:

- have filed their Exchange Act reports on a timely basis for at least one year prior to filing of the registration statement and satisfy the other applicable eligibility conditions for the use of Form S-3 or Form F-3;
- have a class of common equity securities that is listed and registered on a national securities exchange;

¹ There are changes to Form 10-K that all reporting companies should reflect in their Form 10-K reports. For companies that are not eligible or do not elect to report under the new smaller reporting company rules, these changes are minor, amounting essentially to changes in the check boxes relating to the company's status on the facing page of Form 10-K.

- do not sell more than the equivalent of one-third of their public float in primary offerings registered on Form S-3 or Form F-3, as applicable, over any 12-month period (the “one-third limitation”); and
- are not “shell companies” and have not been shell companies for at least one year before filing the registration statement.

In order to determine the amount of securities that may be sold on a Form S-3 or Form F-3 by a company subject to the one-third limitation, a company must compute its public float immediately prior to the intended sale and aggregate all sales of debt and equity securities made on a primary basis on Form S-3 or F-3 (including the intended sale) during the previous 12-month period. The one-third limitation is intended to provide issuers with flexibility as the limitation will increase (or decrease) as the issuer’s market cap increases (or decreases).² It should be noted that the one-third limitation does not limit a company’s ability to issue and sell shares using a registration statement on Form S-1 or through a private placement which are subsequently registered for resale. However, it should be noted that in certain circumstances the SEC has tightened the availability of Form S-3 to resell securities purchased in a private placement where the number of shares being registered exceeds 30% of the issuer’s public float. If the SEC does not allow the resale to be considered as a secondary offering, then the offering will be deemed primary offering. Accordingly, the issuer must meet the higher – \$75 million public float – primary offering eligibility criteria for using Form S-3 if the number of shares to be registered exceeds the one-third limitation and some or all of the investors named as selling stockholders in the registration statement must be identified as underwriters. Underwriter status exposes the selling stockholders to liability, subject to a due diligence defense, for any misstatements or omissions contained in that registration statement. If the issuer does not meet the eligibility criteria for using a Form S-3 without the one-third limitation, resales will be limited under the registration statement.

To the extent that the public float of a company that filed its Form S-3 or F-3 subject to the one-third limitation exceeds \$75 million subsequent to filing, the one-third limitation will no longer apply. If a company has an effective registration statement on Form S-3 or F-3 and its public float equaled or exceeded \$75 million when the registration statement was filed, and therefore, was not subject to the one-third limitation, the company will become subject to the one-third limitation if the company has a public float of less than \$75 million on the date it files its annual report on Form 10-K. The company will not become subject to the one-third limitation prior to the filing of the Form 10-K.

The rule changes took effect on January 28, 2008. The SEC release adopting these rule changes is available on the SEC website at <http://www.sec.gov/rules/final/2007/33-8878.pdf>.

² For examples of these calculations, please refer to the adopting release at: <http://www.sec.gov/rules/final/2007/33-8878.pdf>.

Increased Flexibility under Rule 144 and Rule 145 for Resales of Restricted and Control Securities

The SEC recently adopted amendments to Rule 144 and Rule 145 under the Securities Act that increase investor flexibility to resell “restricted securities” (generally, securities acquired directly from the issuer in the transaction exempt from registration) and “control securities” (generally, securities held by affiliates of the issuer) by shortening the required holding periods and reducing the conditions for resales. The rule changes also codify several related SEC interpretive positions.

Shortened Holding Period

The SEC shortened the minimum Rule 144 holding period for restricted securities from one year to six months for issuers that have been subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act for at least 90 days prior the Rule 144 sale. The one-year holding period will continue to apply to restricted securities of non-reporting companies. Notably, the SEC did not adopt the provision contained in its proposing release to suspend the new six-month holding period during any period where holder held a short position or put equivalent position in the issuers security.

Simplified Conditions for Resales

The amendments also simplify compliance with Rule 144 by both non-affiliates and affiliates of the issuer. Under the amended rule, a non-affiliate of a reporting issuer may engage in unlimited resales of securities after satisfying the six-month holding period if the issuer has filed all periodic reports required to be filed by it during the past 12 months or for such shorter period of time (which must be at least 90 days) that the issuer has been required to file periodic reports. The current public information requirement no longer applies after the one-year holding period has been satisfied. In the case of non-affiliates holding restricted securities of a non-reporting company, the amendments permit unlimited public resales without any conditions after a minimum one-year holding period has expired.

For affiliates of a reporting issuer, the new rules continue to impose a number of restrictions on resales by affiliates, including:

- the current public information requirement;
- volume limitations;
- manner-of-sale requirements (for equity securities only); and
- if applicable, the filing of a notice of proposed sale on Form 144. It should be noted, however, that the threshold for triggering the Form 144 filing requirement has been increased from 500 shares or \$10,000 worth of securities to sales of 5,000 shares or \$50,000 within a three-month period.

The amendments have also eased some of the historical restrictions on resales by affiliates, including:

- manner-of-sale requirements were amended to allow the resale of securities by affiliates through riskless principal transactions and to allow brokers to post bid and ask quotations in alternative trading systems;
- manner-of-sale requirements for resale of debt securities by affiliates has been eliminated, including non-participatory preferred stock and asset-backed securities; and
- volume limitations for the resale of debt securities was raised to permit resale in an amount that does not exceed 10% of a tranche (or a class with respect to non-participatory preferred stock), together with all sales of securities of the same tranche sold for the selling debt security holder within a three-month period.

In the case of affiliates holding restricted securities of non-reporting companies, the amendments permit unlimited public resales after a minimum one-year holding period has expired, provided the following conditions are satisfied:

- the current public information requirement;
- volume limitations;
- manner-of-sale requirements (for equity securities only); and
- if applicable, the filing of a notice of proposed sale on Form 144.

The SEC summarized the final conditions applicable to the resale under Rule 144 of restricted securities held by affiliates and non-affiliates of the issuer as follows:

	Affiliate or Person Selling on Behalf of an Affiliate	Non-Affiliate (and Has Not Been an Affiliate During the Prior Three Months)
Restricted Securities of Reporting Issuers	<p><i>During six-month holding period – no resales under Rule 144 permitted.</i></p> <p><i>After six-month holding period – may resell in accordance with all Rule 144 requirements including:</i></p> <ul style="list-style-type: none"> • current public information, • volume limitations, • manner of sale requirements for equity securities, and • filing of Form 144. 	<p><i>During six-month holding period – no resales under Rule 144 permitted.</i></p> <p><i>After six-month holding period but before one year – unlimited public resales under Rule 144 except that the current public information requirements still applies.</i></p> <p><i>After one-year holding period – unlimited public resales under Rule 144; need not comply with any other Rule 144 requirements.</i></p>

Restricted Securities of Non-Reporting Issuers	<p><i>During one-year holding period – no resales under Rule 144 permitted.</i></p> <p><i>After one-year holding period – may resell in accordance with all Rule 144 requirements, including:</i></p> <ul style="list-style-type: none"> • current public information, • volume limitations, • manner of sale requirements for equity securities, and • filing of Form 144. 	<p><i>During one-year holding period – no resales under Rule 144 permitted.</i></p> <p><i>After one-year holding period – unlimited public resales under Rule 144; need not comply with any other Rule 144 requirements.</i></p>
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Sales of control securities remain subject to the requirements of Rule 144, however no holding period applies before resales can be made.

Additional Restrictions for Shell Companies

The new rule changes prohibit reliance on Form 144 for the resale of securities of shell or blank check companies regardless of whether the company is a reporting company. Security holders of reporting companies that were, but are no longer, shell companies may rely on Rule 144 if the issuer:

- has ceased being a shell company;
- is subject to the periodic reporting requirements under the Exchange Act;
- has filed all periodic reports required to be filed by it during the preceding 12 months; and
- at least 90 days have elapsed from the time the issuer filed Form 10 type information with the SEC reflecting the fact that the company is no longer a shell company.

In addition, a security holder, regardless of affiliate or non-affiliate status, cannot use Rule 144 for resales of securities issued by a shell company until one year from the date that the issuer filed the Form 10 information with the SEC.

Codification of Staff Positions

Definition of Restricted Securities. The SEC codified its interpretative position with regard to securities issued pursuant to an exemption from registration under Section 4(6) of the Securities Act. Section 4(6) exempts from registration an offering that does not exceed \$5 million is made only to accredited investors, does not involve any advertising by or on behalf of the company issuing the securities and for which a Form D has been filed. The amendments formalize the SEC’s position that securities issued pursuant to an exemption under Section 4(6) are considered restricted securities under Rule 144.

Tacking of Holding Periods. The SEC codified its position that, in a transaction made solely to form a holding company, the security holder may tack, or count the period that they held shares in a predecessor company, when calculating the holding

period of the restricted securities held in the resulting holding company. Additionally, the SEC formalized its position that where the restricted securities were acquired from the issuer solely in exchange for other securities of the same issuer, the security holder may calculate the holding period from the date that the exchanged securities were acquired, even if the surrendered securities were not convertible or exchangeable on their terms. Similarly, the SEC codified its position that, upon cashless exercise of options or warrants, the newly acquired underlying securities are deemed to have been acquired when the corresponding options or warrants were acquired, even if the options or warrants did not originally provide for cashless exercise by their terms. The security holder must provide consideration, other than solely securities of the issuer, for an amendment to allow for cashless exercise.

Aggregation of Pledge Securities. The amendments also formalize the SEC's position that sales by a pledgee need not be aggregated with other sales by other pledgees of the same issuer's securities, so long as the pledgees are not the same "person" under Rule 144 and the pledgees are not working in concert with one another. The pledges must, however, continue to aggregate sales with the pledgor.

Representations of Security Holders Relying on Rule 10b5-1. The SEC formalized its position permitting Form 144 filers to make the required representation that he or she "does not know any material adverse information in regard to the current and prospective operations of the issuer of the securities to be sold which has not been publicly disclosed" as of the date the individual adopted a written trading plan or gave trading instructions that satisfied Rule 10b5-1.

Revisions to Rule 145

The SEC also amended Rule 145, which governs resales of securities received in mergers and other business combinations. The SEC eliminated the deemed underwriter provisions of Rule 145 that required affiliates of a target company to comply with the provisions of Rule 144 with respect to registered securities acquired in a business combination. Under the new rules, affiliates of a target company who receive registered shares in a Rule 145 business combination, except for an affiliate of a shell company, and who do not become affiliates of the acquiror, will be able to immediately resell the securities received by them into the public markets without registration.³ Affiliates of the acquiror, and those who become affiliates of the acquiror after the acquisition, will remain subject to the Rule 144 resale conditions generally applicable to affiliates, including the current public information requirement, volume limitations, manner-of-sale requirements for equity securities, and, if applicable, Form 144 filing.

³ With respect to a transaction that is exempt from registration pursuant to Section 3(a)(10) of the Securities Act that falls within Rule 145, if any party to the transaction is a shell company, then any party to the transaction, other than the issuer, and its affiliates will be permitted to resell their securities in accordance with the restrictions of Rule 145(d). Also, the SEC intends to issue a revised Staff Legal Bulletin No. 3 concurrently with the effective date of the amendments that will address the treatment of parties to a transaction and their affiliates that have acquired securities in a transaction exempt from registration pursuant to Section 3(a)(10) of the Securities Act.

Securities issued in business combination transactions structured as private placements will continue to be “restricted securities” that must be resold in accordance with the applicable Rule 144 restrictions, as amended by the new rules, pursuant to an effective registration statement or pursuant to an available exemption from the registration requirements.

The rule changes took effect on February 15, 2008. The revised holding periods and other rule changes are applicable to securities acquired before or after February 15, 2008. The SEC release adopting these rule changes is available on the SEC website at <http://www.sec.gov/rules/final/2007/33-8869.pdf>.

Exemption from 1934 Act Registration for Compensatory Stock Options

The SEC created two new exemptions from the registration requirements applicable to employee stock options under Section 12(g) of the Exchange Act. The effect of these amendments is to allow greater use of compensatory stock options by private companies without the concern of having to satisfy registration and ongoing disclosure obligations. Prior to the amendments, Section 12(g) required a company with 500 or more holders of record of a class of equity security and assets in excess of \$10 million at the end of its most recently ended fiscal year to register that class of equity security, and therefore, become subject to the reporting requirements of the Exchange Act. Stock options constitute a separate class of equity securities. As a result of granting options, private companies that would not otherwise be subject to the registration and ongoing disclosure requirements of the Exchange Act may become subject to these requirements.

The amendments provide an exemption from the registration requirement of Section 12(g) of the Exchange Act for:

- compensatory employee stock options issued under employee stock option plans of private, non-reporting issuers; and
- compensatory employee stock options of issuers that have registered a class of security under Section 12 of the Exchange Act or are required to file reports pursuant to Section 15(d) of the Exchange Act.

The rule changes took effect on December 7, 2007. The SEC release adopting these rule changes is available on the SEC website at <http://www.sec.gov/rules/final/2007/34-56887.pdf>.

If you would like additional information about the issues addressed in this public company advisory, please contact:

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